

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 08/14/02 Item: 4.d.

File Number
CP02-021

Application Type
Conditional Use Permit

Council District
4

Planning Area
North San Jose

Assessor's Parcel Number(s)
587-16-032

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Elena Lee

Location: West side of Turlock Lane, approximately 100 feet northerly of Crater Lane

Gross Acreage: 1.38

Net Acreage: 1.38

Net Density: n/a

Existing Zoning: R-1-8 Residential

Existing Use: Church

Proposed Zoning: No change

Proposed Use: Installation of up to three (3) wireless antennas mounted within a steeple and associated equipment.

GENERAL PLAN

Completed by: EL

Land Use/Transportation Diagram Designation
Public/Quasi-Public

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: EL

North: Single Family Residential and Elementary School

A Agricultural, R-1-8 Residential

East: Single Family Residential and High School

R-1-8 Residential

South: Single Family Residential

R-1-8 Residential

West: Single Family Residential

R-1-8 Residential

ENVIRONMENTAL STATUS

Completed by: EL

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: EL

Annexation Title: Piedmont No. 19

Date: May 24, 1965

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☐ Action
☐ Recommendation

APPLICANT

Richard Connor Riley & Associates
Attn: Jennifer Estes
2420 Camino Ramon, Suite 380
San Ramon, CA 94583

DEVELOPER

Sprint PCS
C/o Andrew Grove
4683 Chabor Drive, Suite 100
Pleasanton, CA 94588

OWNER

Lewis Memorial Christian Methodist Episcopal
D'Anna Gipson, Pastor
1363 Turlock Lane
San Jose, CA 95132

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: EL

Department of Public Works

None received.

Other Departments and Agencies

See attached for memos from the Police and Fire Departments.

GENERAL CORRESPONDENCE

See attached report on the health effects of the proposed antennas, the Land Use Policy for Wireless Communications Facilities, and community meeting announcement.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Sprint PCS, is requesting a Conditional Use Permit to allow (1) installation of three cross-polar, wireless communications antennas mounted within a new church steeple, and (2) placement of associated equipment cabinets adjacent to the base of the church building. The Zoning Ordinance requires a Conditional Use Permit for installation of wireless communications antennas in the R-1-8 Single-Family Residence Zoning District.

The antenna facility is proposed to be located on the Lewis Memorial Church site at the west side of Turlock Lane, approximately 100 feet northerly of Crater Lane. The site is bounded by an elementary school to the north and single family detached residential uses to the south and west. Single family detached residences are also located to the west, across Turlock Lane.

The Planning Commission conditionally approved the installation of three wireless antennas mounted within a new church steeple on November 14, 2001. The previous application proposed to place the steeple approximately 2 feet south of the current application. As a condition of the permit, the applicant was required to hire a consultant, within 60 days of the permit's issuance, to conduct an independent survey to confirm that the proposed antenna location would be a minimum of 50 feet from the closest residential property line, per the Wireless Policy. The applicant informed staff that their engineering consultant had discovered through a third survey that there was an error and the proposed antenna was actually 48 feet from the closest residential property line. Because of this new information, the applicant did not conduct the independent survey and allowed the permit to expire.

Project Description

The proposed project will install up to three wireless communications antennas mounted within a new 35-foot tall steeple on an existing 18-foot tall church building. The steeple will be placed on the southeast side of the building, facing Turlock Lane. The proposed steeple structure will be 17 feet in height and sit on a 2-foot base attached to the roof the existing church. The steeple will be placed approximately 50 feet from the closest residential property line and will be designed and painted to

match the existing church building. A photographic simulation (attached) has been provided to illustrate the appearance of the church steeple. Five associated ground-mounted equipment cabinets and a GPS antenna, approximately 31"x 30"x 60" in size, are also proposed within a 248 square foot lease area enclosed by a 9-foot tall concrete masonry enclosure, to be placed on the west side of the building behind an existing shed.

ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review under Section 15301 of the California Quality Act Guidelines concerning minor alterations of existing public or private structures.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi Public.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. A community meeting was held on August 8, 2002 for this project. Meeting notices were mailed out to all property owners and occupants within 500 feet of the project site, per city policy. Additionally, email notices were sent out by Council District 4 office for this meeting.

An earlier community meeting was held on October 18, 2001 for the previous application. At that meeting, residents expressed concerns about health hazards, the distance of the antenna from the closest residential property line, and the landscape condition of the site.

Health Hazards

The applicant's engineering consultant conducted a study to analyze the health hazards posed by this proposal and determined that the project was in full compliance with the Federal Communications Commission's standards for emissions. (Please see the attached report, Sprint PCS Proposed Base Station, for more information)

In 1996, Planning staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health hazard. Staff found that the low-frequency, low energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from antennas.

50 Foot Residential Setback Policy

The applicant hired an independent engineering consultant to conduct another survey to confirm the location of all property lines and the distance of the proposed steeple from the closest residential

(southern) property line. The survey was conducted on August 6, 2002. The applicant also notified via email the residents who expressed concerns about the antenna's distance from the property line and invited them to observe the survey. (See attached emails). The applicant has also offered to do a second survey for residents who could not attend on August 6. One neighbor, Judy Eskinazi was present for some of the survey. The survey confirmed that the new proposed location places the antennas at least 50 feet away from the nearest residential property. A copy of this survey is included with the plan set for this project.

Landscaping

Residents have also expressed concern regarding the condition of the church's landscaping. To address the landscaping concerns, the applicant has offered to replace the chain link fence fronting the church property with a wooden fence and to plant drought resistant trees and shrubs to improve the landscaping. The applicant will also provide maintenance of the new landscaping while they are leasing the site for the antennas. The permit also includes conditions that require the property owners to maintain the landscaping.

ANALYSIS

The key issue analyzed for the proposed project is consistency with the City Council Land Use Policy for Wireless Communication Facilities. The City of San Jose may allow installation of wireless communications antennas with a Conditional Use Permit to ensure such projects conform to City requirements and are compatible with the surrounding neighborhood.

City Council Policy for Wireless Communications Antennas

The proposal is consistent with the Council policy in that:

1. The proposed project will collocate three wireless communications antennas and associated equipment on the roof of an existing building.
2. The structure-mounted antennas are located a minimum of 50 feet horizontally from residentially-designated properties. In response to residents' concern over the distance of the proposed antennas from the closest residential property line, on August 6, 2002, the applicant's surveyor verified the proposed distance with one resident in attendance. The surveyor confirmed that the antennas would be 51 feet away from the closest residential property line.
3. The overall height of the building, including antennas and steeple, does not exceed 35 feet. The maximum height limit for buildings allowed in the R-1-8 Residential zoning district is 35 feet. The height of the building is 18 feet and the addition of the 17-foot tall steeple structure and enclosed antennas raises the overall height to 35 feet.
4. New wireless communication antennas should be sited so as to minimize visual impacts. The proposed antennas are completely enclosed within a steeple designed to match the existing building and have been designed and placed to have a minimal degree of visibility. Because existing trees screen the site and the antennas and equipment is placed at the rear of the site, Staff has determined that additional landscaping is not necessary to further screen the equipment as

would normally be required by City policy. The masonry enclosure will be painted to match the building and the project will not eliminate any required parking.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Single Family Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
4. The project is adjacent to an elementary school to the north and single family residential uses generally surround the subject site to the north, south, east and west. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.
5. The project proposes the installation of up to 3 wireless communications antennas mounted within a 17-foot tall steeple mounted on the roof of an existing 18 foot tall building and placement of five associated equipment cabinets adjacent to the side of the building.
6. The antennas are located a minimum of 51 feet horizontally from any residential parcels.
7. The roof mounted wireless communications antennas will raise the overall height of the building to 35 feet.
8. The cabinets will be located within a lease area measuring 12 feet by 21 feet in front of existing equipment enclosures.
9. The cabinets will be screened by a concrete masonry enclosure, painted to match the existing building.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

4. The proposed project complies with the applicable criteria of the City Council Land Use Policy for Wireless Communications Facilities.
5. The proposed project appropriately colocates wireless communication antennas on the roof an existing building.
6. The proposed project contains adequate setbacks of at least 50 feet horizontally from residential uses.
7. The proposed project increases the overall height of the existing building to 35 feet, the maximum allowed height of 35 feet.
8. The proposed project adequately screens ancillary equipment cabinets.
9. The proposed project will not eliminate required parking.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Sprint PCS Lewis Memorial Church SF33XC404B 1363 Turlock Lane, San Jose, CA 94132, County of Santa Clara," dated January 2, 2002, and last revised on August 7, 2002, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** The proposed service light shall utilize a low sodium light fixture.
5. **Colors and Materials.** All wireless communications antennas colors and materials are to be those specified on the approved plan set.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP02-021, shall be printed on all construction

plans submitted to the Building Division.

- b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
8. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
9. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning
10. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San Jose Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San Jose Fire Prevention Bureau.
11. **Discontinuation Of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
12. **Co-location.** The applicant and wireless communication facility operator shall facilitate the future collocation of wireless communication antennas on this tower. The applicant and wireless communication facility operator shall notify the Director of Planning of any proposals by other wireless communication providers to collocate antennas on this tower. The notification shall occur within 30 days of receipt of the proposal, and shall include the file number of this Permit. The Director of Planning shall review any changes to the approved design necessary to accommodate other providers. The Director of Planning may approve the co-location of wireless antennas through a permit adjustment.
13. **Radio Frequency Electromagnetic Fields.** The applicant shall measure the electromagnetic radiation emitted by the proposed wireless antennas. Measurements shall be taken once at one month after installation and least once after 12 months and the results shall be submitted to the Director of Planning after the antennas are installed.
14. **Fencing.** The applicant will replace the chain link fence located in the front setback of the property with a wooden fence.
15. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
16. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified

professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

17. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

c: Building Division (2)

Engineering Services

Richard Connor Riley & Associates. Attn: Benjamin Davies. 2420 Camino Ramon, Suite 380, San Ramon, CA 94583

Sprint PCS. Attn: Andrew Grove. 4683 Chabor Drive, Suite 100, Pleasanton, CA 94588

Lewis Memorial Christian Methodist Episcopal. Earl E. Stephens, Trustee (Chair). 1363 Turlock Lane San Jose, CA 95132